

**Board of Forestry and Fire Protection  
Title 14 of the California Code of Regulations**

[Notice Date – May 22, 2013]

**15 - DAY NOTICE**

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION AND  
PUBLIC HEARING DATE**

**“DEFENSIBLE SPACE, 2012”**

**PUBLIC HEARING DATE**

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the State Board of Forestry and Fire Protection (Board) is providing notice of revisions made to a subsection of the § 1299 “Defensible Space, 2012” regulatory amendments adopted by the Board following a regulatory hearing conducted on January 9, 2013. These changes are proposed to reconcile a conflict between a subsection of the previously adopted rule text and parallel provisions of a guidance document incorporated in the adopted rule text by reference. This conflict resulted in disapproval of subsection 1299.03(b)(2)(A) by the Office of Administrative Law (OAL) on March 12, 2013. Pursuant to Government Code Section 11349.4(a), the Board has 120 days in which to resubmit the necessary rule text reconciliation to OAL for review. **The Board will therefore hold a public hearing to consider adoption of the proposed rule text correction at their regularly scheduled meeting on Wednesday, June 5, 2013. The meeting will begin at 8:00am in the Sierra Room of the Red Lion Hotel located at 1830 Hilltop Drive, Redding, California.**

**MODIFICATIONS TO TEXT OF PROPOSED REGULATION**

The Board is providing notice of revisions to defensible space regulations adopted following a public hearing conducted on January 9, 2013. These revisions affect subsections 1299.03(b)(2) and 1299.03(b)(2)(A) of Title 14 of the California Code of Regulations (14 CCR), Division 1.5, Chapter 7 Fire Protection, Subchapter 3, Article 3. The proposed rule text changes are indicated in double underline and double strikethrough. The following sections are proposed for amendment:

**§ 1299.03(b)(2) Zone 2 Requirements.**

The rule text in this Subsection has been slightly modified to include reference to the two vegetation clearance methods described in the Board’s and Department of Forestry and Fire Protection’s *General Guidelines for Creating Defensible Space*. These two methods are likewise referenced in the preceding Subsection, 1299.03(b)(1).

**§ 1299.03(b)(2)(A).**

The rule text in this Subsection has been slightly revised to further define the elements of surface litter. More importantly, the maximum allowable depth of this material has been revised from the previously adopted standard of four inches to three inches. This revision was necessary to reconcile the depth standard of the rule text with the recommended depth standard of the aforementioned *General Guidelines* document. This conflict is the reason for OAL's disapproval of this provision in the previously adopted rule text and is accordingly the reason for this 15-day Notice.

**PUBLIC COMMENTS**

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Wednesday, June 5, 2013.** The Board will consider only written comments received at the Regulations Coordinator Office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Board of Forestry and Fire Protection  
Attn: Eric K. Huff, RPF No. 2544  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9<sup>th</sup> Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

### **UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The statutory authorities for this proposed regulation are found in Public Resources Code (PRC) Sections 4290 and 4291. The most recent amendments to PRC Section 4291 require vegetation clearance up to 100 feet from the structure, or the property line, whichever is less. This statutory clearance requirement is intended to reduce the vulnerability of homes to wildfires and prevent the spread of fire from the homes to the wildlands. The statute provides very general requirements for clearing vegetation for hazard reduction. This proposed regulation provides more specific direction on implementation of the vegetation clearance requirements.

At its regularly scheduled meeting on March 7, 2012, the California State Board of Forestry and Fire Protection (Board) adopted amendments to existing rule sections and new rule sections for the Section 1299 defensible space regulations that implement Public Resources Code Section 4291. These regulations were adopted as publicly noticed for 45 days without additional modification beyond editorial corrections. This adoption was intended to promote the protection of life, property, and the environment through improved clarity and guidance on minimum vegetation clearance standards around structures. The regulations apply only to structures located within areas designated as “State Responsibility Area” for fire protection.

Following the Board’s adoption, the Office of Administrative Law (OAL) conducted its review of the regulations and determined that there were a number of the newly adopted provisions that required additional clarification. The Board subsequently withdrew the adopted regulation from further OAL review in order to make revisions to the rule text and Initial Statement of Reasons. The Board adopted these revisions following its public hearing on January 9, 2013.

Upon submission of the adopted regulations, OAL identified a conflict between the “surface litter” depth standard of Subsection 1299.03(b)(2)(A) and the parallel depth guideline in the Board and Department of Forestry and Fire Protection’s publication, *General Guidelines for Creating Defensible Space*. In response, the Board has proposed a revision of the rule text depth standard that conforms with the depth guideline specification of the *General Guidelines* document.

## **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Eric K. Huff, RPF No. 2544  
Regulations Coordinator  
California Department of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460  
(916) 653-9633

The designated backup person in the event Mr. Huff is not available is Mr. George Gentry, Executive Officer of the Board of Forestry and Fire Protection. Mr. Gentry may be contacted at the above address or by phone at (916) 653-8007.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* and *Final Statement of Reasons* for the previously adopted "Defensible Space, 2012" regulations. These documents provide an explanation of the purpose, background, and justification for the previously adopted regulations. If the regulatory amendments are adopted by the Board as proposed following the hearing on June 5, 2013, the *Final Statement of Reasons* will be amended to reflect the comments and responses associated with this 15-day Notice. The statements are available from the contact person on request.

When the amendments to the *Final Statement of Reasons* have been prepared, these amendments to the statement will be available from the contact person on request.

A copy of the express terms of the original proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address:

California Department of Forestry and Fire Protection  
Resources Building  
Room 1517  
1416 9<sup>th</sup> St.  
Sacramento, CA 95814

Attention: Eric K. Huff  
Tel: (916) 653-9633

All of the above referenced information is also available on the Board website at:

[http://www.bof.fire.ca.gov/regulations/proposed\\_rule\\_packages/](http://www.bof.fire.ca.gov/regulations/proposed_rule_packages/)

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised.

Proposed revisions to the rule text previously adopted by the Board following a public hearing on January 9, 2013 are identified in the 15-Day Notice of Rulemaking rule text as follows:

Existing CCR Text ----- No underline or strikethrough

Rule text adopted January 9, 2013 ----- single underline

Deletions of text proposed in the 15-Day Notice ---- ~~double strikethrough~~

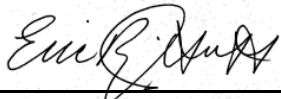
Additions to text proposed in the 15-Day Notice ----- double underscore

Notice of the comment period and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board.

A copy of the express terms of the modifications of the originally proposed action using SINGLE UNDERLINE to indicate an addition to the California Code of Regulations is also available from the contact person named in this notice.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for no less than 15 days from the date on which they are made publicly available.



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Eric K. Huff, RPF No. 2544  
Regulations Coordinator  
California Department of Forestry and Fire Protection

1 DEFENSIBLE SPACE, 2012

2 14 CCR, Division 1.5, Chapter 7 Fire Protection, Subchapter 3.,

3 Article 3. Fire Hazard Reduction Around Buildings and Structures

4  
5 Amend § 1299.03(b)(2). Zone 2 Requirements.

6  
7 Amend § 1299.03(b)(2)(A).

8  
9 (b) Zone 2 Requirements:

10  
11 (1) In this zone create horizontal and vertical spacing among  
12 shrubs and trees\*\*\*\*\*

13 (2) In both the Fuel Separation and Continuous Tree Canopy  
14 methods the following standards apply:

15  
16 (A) ~~All~~ ~~Dead and dying~~ woody surface fuels and aerial  
17 fuels ~~must~~ shall be removed. ~~with the exception of~~ Loose surface  
18 litter ~~which~~, normally consisting of fallen leaves or needles,  
19 twigs, bark, cones, and small branches, shall be permitted ~~unless~~  
20 ~~stated otherwise, may be retained~~ to a maximum depth of ~~four~~  
21 three inches (~~4~~ 3 in.).